

(See [Fed. R. Civ. P. 16](#))

LR 16-1 Court Actions Upon Initial Filing (See [LR 3-5](#))

At the time of the initial case filing, the Clerk's Office will:

(a) Case Assignment

Randomly select an assigned judge in accordance with the Court's Case Management Plan and assign a case number.

(b) Consent Forms

Issue Consent to Jurisdiction by a U.S. Magistrate Judge forms and other information packets. (See Consent to Jurisdiction by a Magistrate Judge form.)

(c) Process

Issue summons and other appropriate process.

(d) Scheduling Order

Issue a scheduling order as appropriate for the case. (See Discovery and Pretrial Scheduling Order form.)

LR 16-2 Rule 16 Conferences (See [Fed. R. Civ. P. 16](#))

Unless otherwise ordered by the Court:

(a) Counsel's Duty to Request Conference

Counsel for plaintiff(s) and for defendant(s), during or promptly after the conference of counsel for discovery planning referred to in [LR 26-1](#), must contact the assigned judge's courtroom deputy and request a Rule 16(b) scheduling and planning conference.

(b) Calendaring

At the Rule 16(b) scheduling and planning conference, counsel for the parties must have their calendars available and be prepared to discuss any of the issues enumerated in [Fed. R. Civ. P. 16\(b\) and 16\(c\)](#), including proposed modifications to the schedule outlined in the initial Discovery and Pretrial Scheduling Order issued by the Court at the commencement of the action.

(c) Conference Request Made At Any Time

Notwithstanding anything in this or any other local rule, any party may ask for a conference pursuant to [Fed. R. Civ. P. 16](#) at any time. This subsection applies to all civil cases, including those categories of cases mentioned in [Fed. R. Civ. P. 26\(a\)\(1\)\(B\)](#).

(d) Sample

See sample Order Establishing the Trial and Pretrial Conference Dates and Procedures for a type of order that may be used for the final pretrial conference held pursuant to [Fed. R. Civ. P. 16\(e\)](#). Requirements may vary depending upon the nature of the case.

(e) Completion of Discovery Defined

The initial case scheduling order establishes the time for completion of discovery. Unless otherwise directed by the Court, the following discovery related events must be completed by the completion of discovery date:

- (1)** All depositions must be taken, including depositions to preserve testimony for trial.
- (2)** All interrogatory or other discovery requests must be answered.
- (3)** All documents must be produced pursuant to request.

(4) The Court will not require a response to a discovery request that is made with insufficient time for a party to respond prior to the completion of discovery date.

(5) Completion of discovery does not include expert depositions taken pursuant to [Fed. R. Civ. P. 26\(b\)\(4\)\(A\)](#)

LR 16-3 Motions to Change or Extend Court Imposed Deadlines

(a) Motions

Except as provided by [LR 16-2\(b\)](#) , objections to any court-imposed deadline must be raised by motion and must:

(1) Show good cause why the deadlines should be modified.

(2) Show effective prior use of time.

(3) Recommend a new date for the deadline in question.

(4) Show the impact of the proposed extension upon other existing deadlines, settings, or schedules.

(b) Stipulations to Extend Deadlines or Schedules (See [LR 29](#))

LR 16-4 Alternate Dispute Resolution (ADR) (See [Fed. R. Civ. P. 16\(c\)\(2\)\(I\)](#))

(a) Scope and Application

Unless otherwise directed by the Court or as provided in paragraph (b) below, this rule applies to all civil cases filed in the district court.

(b) Exemptions

The following class of cases are exempt from this rule:

- Habeas Corpus Petitions;
- Prisoner Suits;
- 28 U.S.C. §2255 Claims;
- Social Security Appeals;
- Civil Forfeitures;
- Qui Tam Actions;
- IRS Summons Enforcement Actions;
- Student Loan Collection;
- Veterans Overpayment;
- Multi-district Litigation;
- Bankruptcy Appeals and;
- Cases Involving Pro Se Litigants.

(c) ADR Conference Requirements (See LR 16-4(e)-(g))

Not later than one hundred-twenty (120) days from the initiation of a lawsuit, counsel for all parties (after conferring with their clients) must confer with all other attorneys of record and all unrepresented parties, to discuss whether the case would benefit from any private or court sponsored ADR option.

(d) Joint ADR Report (See Joint Alternate Dispute Resolution Report form)

Within one hundred-fifty (150) days of the initiation of a lawsuit, the parties must file a Joint Alternate Dispute Resolution Report.

(e) ADR Options - Generally

(1) Party Initiated

(A) Private ADR: The parties may agree to pursue mediation, or any other form of alternate dispute resolution, at any time in the life of a civil case.

(B) Request for Court Sponsored Volunteer Mediation: (See LR 16-4(f)(1)(A)).

(C) Request for a Settlement Judge: (See LR 16-5).

(2) Court-Directed Mediation

(A) The Court on its own motion, or upon the motion or request of a party, may refer any civil case to mediation. As a general rule, the Court will refer cases with financial resources to private mediators or mediation services, and will refer cases with limited financial resources, or indigent parties, to the Court's panel of volunteer mediators.

(B) When the Court makes a referral to private mediation, the parties select and compensate the mediator and, in conjunction with the mediator, agree to the time, place, and duration of the mediation.

(C) During the conduct of Court-directed mediation, mediators act as officers of the Court and have judicial immunity.

(f) Court-Sponsored Volunteer Mediation Program

(1) Selection of a Volunteer Mediator

(A) Subject to the conditions of LR 16-4(e)(2)(A), any party may move to have a case referred to one of the Court's volunteer mediators.

(B) If the motion is granted, the Court will enter an order directing reference to volunteer mediation. Upon entry of the order, the parties will be asked to select a mediator from the Court's list of volunteer mediators, and to work with the mediator to agree to the time, place, and duration of the mediation.

(C) As a general rule, volunteer mediators agree to conduct mediation without costs to the parties for four (4) hours. After that point, any decision to continue mediation, with or without compensation, must be agreed to by the mediator and the parties.

(D) If the parties cannot agree upon a mediator within fourteen (14) days after entry of the order, the attorney for the plaintiff must notify the Court, who will then designate a mediator.

(2) Mediation Procedure

(A) After entry of the order of reference to mediation, the parties are required to provide such information and advice as the mediator requires.

(B) Generally, the mediator will schedule a preliminary conference prior to the mediation. The mediator may also require the parties to participate in the preliminary conference along with their attorneys.

(C) The attorney responsible for each party's case will attend the mediation and any adjourned sessions. At the mediation, the attorney for each party must be prepared to discuss in good faith:

(i) All liability issues;

(ii) All damage issues; and

(iii) The position of his or her client relative to settlement.

(D) Unless excused by the mediator, clients must be available and must attend the mediation.

(E) The mediator will determine whether parties will be present in the conference room, and if so, how they will be asked to participate.

(F) Parties whose defense is provided by a liability insurance company need not personally attend the mediation conference. However, if a representative of the insurer is available in the district, that representative must attend and must be empowered to bind the insurer to a settlement if a settlement can be reached within the limits set by the insurer.

(G) In all cases, any person with authority must be present or available by telephone. However, the United States may be represented by the trial attorney.

(H) Unless excused from attendance by the mediator, an attorney or client's willful failure to attend the mediation must be reported to the Court by the mediator and may result in the imposition of sanctions.

(g) Proceedings Privileged

(1) ADR proceedings (including all statements made by a party, attorney, or other participant, and/or any memorandum or written submission provided to the mediator or ADR facilitator), are privileged -- and, except as otherwise authorized by the Federal Rules of Evidence, will not be reported, recorded, or otherwise placed in evidence; made known to the trial court or jury; or construed for any purpose as an admission against interest.

(2) Unless waived in advance by the parties, or as otherwise authorized by the Court, this

privilege applies to ADR proceedings conducted pursuant to LR 16-4(e)(1) and (2).

(3) No party will be bound by anything done or said at the conference unless a settlement is reached, in which event, the agreement upon a settlement will be reduced to writing under the direction of the mediator and will be binding upon all parties to that agreement. In a dispute between the parties regarding the terms of the settlement, the terms of the settlement as communicated by the mediator and accepted by the parties are not privileged under LR 16-4(g)(1).

(h) Proceedings Upon Failure to Achieve an ADR Settlement

(1) Private ADR: Not later than seven (7) days following the conclusion of private ADR proceedings, plaintiff's attorney will notify the Court in writing:

(A) Whether settlement (in whole or in part) was achieved; or

(B) Whether settlement could not be achieved and whether any (or all) of the parties believe that further judicial intervention (including the possibility of a settlement judge), will help to resolve the case.

(2) Court-Appointed Private or Volunteer Mediation: The Court- appointed mediator will promptly notify the Court if no settlement is achieved. The mediator will also inform the Court whether he or she believes intervention by a settlement judge may help to resolve the matter.

(i) No Stay of Action During ADR

Unless directed by the Court, no stay of an action will take place during ADR. In addition, no scheduled dates for any required submission or proceeding, including trial, will be changed.

(j) Qualifications and Requirements of Mediators

(1) As a general rule, the parties may select and thereby set the qualifications of a private mediator or mediation service, subject only to the requirements of LR 16-4(g).

(2) Volunteer mediators must submit an agreement to serve (See Agreement to Serve as Mediator form), advise the Court in which divisions of this Court they are willing to serve, and agree to perform at least eight hours of volunteer mediation service per year without payment. Volunteer mediators must be members in good standing of the Oregon State Bar who have been admitted to practice before the federal courts for a minimum of five years, or be a retired or senior judge.

(3) The Clerk will maintain a list of volunteer mediators by division of this Court.

(k) ADR Program Administration

(1) An ADR Administrator is responsible for implementing, administering, overseeing, and evaluating the ADR program and procedures covered by LR 16-4.

(2) The Clerk will make pertinent rules and explanatory materials available to the parties.

LR 16-5 Judicial Settlement Conferences

(a) Scheduling

The Court on its own motion, or the request of a party, may schedule a settlement conference.

(b) Summary Trial

The Court on its own motion, or upon motion or request of any party, may assign any civil case for a non-binding summary trial (including summary jury trial, for cases triable to a jury), arbitration hearing, or other alternative method of dispute resolution.

Commentary on LR 16-5

The Court encourages the parties to make good faith efforts at settlement before requesting judicial intervention.

LR 16-6 Proposed Pretrial Order

(a) Filing Requirements

The parties may stipulate, subject to the approval of the Court, or the Court may order, that no pretrial order need be filed. Otherwise, the parties will prepare and sign a proposed pretrial order to be lodged with the Court on or before the date ordered by the Court.

(b) Content Requirements (See [Pretrial Order](#))

If there is no court-approved stipulation or order dispensing with the need for a pretrial order, the parties will prepare a proposed order to frame the issues for trial. At a minimum, the pretrial order must contain:

(1) A concise statement of the nature of the action, including whether trial will be by jury and whether the parties have consented to trial by a magistrate judge.

(2) A concise statement of each basis for federal jurisdiction and the facts supporting or disputing jurisdiction.

(3) All agreed facts; with an asterisk (*) by those where relevance is disputed.

(4) A statement of each claim and defense to that claim with the contentions of the parties. Contentions will not recite the evidence to be offered at trial but will be sufficient to frame the issues presented by each claim and defense.

(5) Other legal issues not stated under either claims or defenses and designating those appropriate for decision before trial.

(6) A statement indicating proposed amendments to the pleadings, if any.

(7) The same format should be used in the order for any counterclaim or cross-claims, followed by any affirmative defenses to each of those claims.

(c) Service and Lodging of Pretrial Order

Unless modified by the Court, the time for service and lodging of the pretrial order will be as follows:

(1) The plaintiff will, at least thirty (30) days before the lodging date, prepare and serve on all parties a proposed pretrial order.

(2) Within fourteen (14) days after service of that proposed pretrial order, each other party will serve on all parties the objections, additions, and changes such party believes should be made to the plaintiff's proposed pretrial order.

(3) All areas of disagreement must be shown in the proposed pretrial order, but the parties will make every effort to resolve such disagreements.

(4) The proposed pretrial order must be signed by the parties, and the plaintiff must lodge it with the Court.

(d) Effect of Pretrial Order

The pretrial order amends the pleadings, and it, and any later order of the Court will control the subsequent course of action or proceedings as provided in [Fed. R. Civ. P. 16](#).

Amendment History to LR 16

June 1, 2002

LR 16.5 New section (b) added.

Original rule re-numbered to (a).

LR 16.7(a) "preliminary" deleted from first sentence "...preliminary pretrial conference..."

LR 16.7(c) "preliminary" deleted from first sentence "...preliminary pretrial conference..."

February 10, 2003

LR 16.5 Commentary added

June 1, 2006

Generally Added references to Appendix of Forms.

Updated cross references throughout.

Numeric formats modified; i.e. "ten (10)".

LR 16.1(a) Text from subsection (b) moved to this section with subsequent subsections

LR 16.1(b) The words "..Consent to Jurisdiction by a U.S. ..." added.

The word "consent" stricken

LR 16.1(d) The words "..a scheduling order as appropriate for the case..." added. The w

LR 16.2 Heading modified

LR 16.2(a) The word "request" substituted for "schedule".

The phrase beginning with .." and the assigned judge..." deleted.

LR 16.2(b) The words "initial court " stricken and replaced with "Rule 16(b) scheduling a

The words "discovery, Magistrate Judge consent" stricken and replaced with "of the issues enumerated

LR 16.2(c) Commentary deleted

LR 16.2(d) Subsection (d) added with subsequent sections re-lettered

LR 16.3 The word "Imposed" substituted for the word "Established" in the heading.

LR 16.4(h)(1)(b) The word "including" substituted for the words "to include".

LR 16.4(h)(2) The words "he or she"" substituted for the word "they".

LR 16.4(j) The phrase "...provided by the clerk.." stricken.

The word "calendar" stricken

LR 16.6(c)(3) The word "All.." substituted for "If there are..."

Remainder of sentence modified to make it grammatically correct

LR 16.6(c)(4) The word "will" changed to "must" throughout

LR 16.7 Deleted

December 1, 2009

LR 16-2(a) and (b) The word "shall" changed to "must."

LR 16-2(c), (d), and (e) Reference to Fed. R. Civ. P. 26(a)(1)(E) changed to 26(a)(1)(B), 16(d) chang

LR 16-3 Title changed from "Objections to Court Imposed Deadlines" to "Motions to C

LR 16-3(a) Header "Objections" changed to "Motions."

LR 16-3(b) reference deleted to LR 6.

LR 16-4(f)(1)(D) Ten (10) days changed to fourteen (14) days.

LR 16-6(c)(2) Fifteen (15) days has been changed to fourteen (14) days.

Generally Cross-references updated and references to Appendix of Forms deleted.

